IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6371 of 2000

For Approval and Signature:

Hon'ble MISS JUSTICE R.M.DOSHIT

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

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ISHVERBHAI HARIBHAI RABARI

Versus

COLLECTOR

Appearance:

1. Special Civil Application No. 6371 of 2000

MR KR BRAHMBHATT for Petitioner No. 1

MR. S.P. SEN, A.G.P for Respondent No. 1-3

CORAM : MISS JUSTICE R.M.DOSHIT

Date of decision: 01/08/2001

ORAL JUDGEMENT

1. Heard the learned Advocates. Rule. Learned Assistant Government Pleader Mr. S.P. Sen waives service of rule on behalf of the respondents.

2. Feeling aggrieved by the order dated 16th March, 2000 made by the Government (Deputy Secretary (Appeals) Revenue Department) in Revision Application No. 109/1997 the petitioner has preferred the present petition.

3. It appears that some time in the year 1988 the petitioner had applied for grant of land admeasuring 5 acres from the land Survey No. 252 of Village Ramsan, Taluka Deesa, District Banaskantha. Pursuant to the said application, the Gram Panchayat on 27th July, 1988 passed resolution that the Panchayat shall have no objection if the land in question were granted to the petitioner for cultivation. The application for such grant made to the Collector, District Banaskantha was rejected by him on 20th September, 1997 on the ground that the land in question was Gaucher land which cannot be disposed of, and that the petitioner had recently encroached upon the same. Feeling aggrieved, the petitioner preferred the above Revision Application before the State Government which was rejected on 16th March, 2000. The State Government has recorded the finding that the land Survey No. 252 admeasuring 38 acres 26 gunthas was assigned to the Gram Panchayat and was reserved for public purpose. It is also observed that the land was not assigned for Gaucher. Thus there appears contradictory finding recorded by the Collector, District Banaskantha and the State Government. Further, before the State Government, neither the petitioner nor his Advocate was present.

4. In above view of the matter, the petition is partly allowed. The impugned order of the State Government dated 16th March, 2000 is quashed and set-aside. The Revision Application is remanded to the State Government for hearing and decision afresh. The petitioner shall remain present before the State Government on the date of hearing without fail either personally or through the learned Advocate. Rule is made absolute to the aforesaid extent. There shall be no orders as to costs.

(Ms. R.M. DOSHIT,J.)

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